

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

BENGAMIN RAY YELLOW OWL,

Defendant.

CR 17-32-GF-BMM-JTJ

FINDINGS AND
RECOMMENDATIONS

I. Synopsis

Defendant Bengamin Ray Yellow Owl (Yellow Owl) has been accused of violating the conditions of his supervised release. (Doc. 58). Yellow Owl admitted most of the alleged violations. Yellow Owl's supervised release should be revoked. Based upon the agreement of the parties, Yellow Owl should be sentenced to custody for a term of 6 months on Count 2, with 51 months of supervised release to follow and to a term of 6 months on Count 3, with 51 months of supervised release to follow, with both the custodial and supervised release terms to run concurrently. During the term of his supervised release, Yellow Owl shall be placed at Hope Ministries as directed by his probation officer.

II. Status

Yellow Owl pled guilty on July 24, 2017, to the offense of Sexual Abuse of a Minor, in violation of 18 U.S.C §§1153(a), 2243(a) as charged in Count 2 of the Indictment and to the offense of Distribution of a Controlled Substance to a Person under 21, in violation of 21 U.S.C. §§ 841, 859(a) as charged in Count 3 of the Indictment (Doc. 22). Yellow Owl was sentenced to 98 months of custody on Count 2, with 5 years of supervised release to follow, and to 98 months of custody on Count 3, with 6 years of supervised release to follow, with both the custodial terms and the supervised release terms to run concurrently. (Doc. 38). Yellow Owl's current term of supervised release began on December 16, 2024.

Petition

On April 28, 2025, the United States Probation Office filed a Petition requesting that the Court revoke Yellow Owl's supervised release. (Doc. 58). The Petition alleged Yellow Owl violated conditions of his supervised release by: (1) using methamphetamine on or about March 24, 2025; (2) failing to report for sex offender treatment on April 16, 2025; (3) failing to comply with substance abuse treatment requirements on April 16, 2025; (4) failing to report for sex offender treatment on April 23, 2025; (5) failing to comply with substance abuse treatment requirements on April 23, 2025; and (6) failing to comply with substance abuse

testing requirements by failing to report to the probation office to have a sweat patch removed on April 23, 2025.

Initial Appearance

Yellow Owl appeared before the Court on May 27, 2025. Yellow Owl was represented by counsel. Yellow Owl stated that he had read the Petition and that he understood the allegations against him. Yellow Owl waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

Yellow Owl appeared before the Court on May 27, 2025. Yellow Owl admitted that he had violated the conditions of supervised release as set forth in the Petition by: (1) using methamphetamine on or about March 24, 2025; (3) failing to comply with substance abuse treatment requirements on April 16, 2025; (4) failing to report for sex offender treatment on April 23, 2025; (5) failing to comply with substance abuse treatment requirements on April 23, 2025; and (6) failing to comply with substance abuse testing requirements by failing to report to the probation office to have a sweat patch removed on April 23, 2025. The Government moved to dismiss allegation (2), which the Court granted. Yellow Owl's admitted violations, 1, 3, 4, 5 and 6, are serious and warrant revocation of his supervised release.

Sentencing hearing

Yellow Owl appeared before the Court on May 27, 2025. Yellow Owl's violations are Grade C. His criminal history category is I. Yellow Owl's underlying offense on Count 2 is a Class C felony and on Count 3 is a Class B felony. Yellow Owl could be incarcerated for up to 24 months on Count 2 and for up to 36 months on Count 3. Yellow Owl could be ordered to remain on supervised release for 57 months less any custody time on Count 2 and to 57 months less any custody time on Count 3. The United States Sentencing Guidelines call for a term of custody of 3 to 9 months for both Counts 2 and 3.

III. Analysis

Yellow Owl's supervised release should be revoked. Based upon the agreement of the parties, Yellow Owl should be sentenced to custody for a term of 6 months on Count 2, with 51 months of supervised release to follow and to a term of 6 months on County 3, with 51 months of supervised release to follow, with both the custodial and supervised release terms to run concurrently. During the term of his supervised release, Yellow Owl shall be placed at Hope Ministries as directed by his probation officer. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Yellow Owl that the above sentence would be recommended to the Chief United States District Judge Brian Morris. The Court

also informed Yellow Owl of his right to object to these Findings and Recommendations within 14 days of this issuance. The Court explained to Yellow Owl that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Yellow Owl waived his right to appeal and allocute before Judge Morris.

The Court **FINDS:**

That BENGAMIN RAY YELLOW OWL has violated the conditions of his supervised release by: (1) using methamphetamine on or about March 24, 2025; (3) failing to comply with substance abuse treatment requirements on April 16, 2025; (4) failing to report for sex offender treatment on April 23, 2025; (5) failing to comply with substance abuse treatment requirements on April 23, 2025; and (6) failing to comply with substance abuse testing requirements by failing to report to the probation office to have a sweat patch removed on April 23, 2025.

The Court **RECOMMENDS:**

That based upon the agreement of the parties, the District Court revoke Yellow Owl's supervised release and sentence Yellow Owl to custody for a term of 6 months on Count 2, with 51 months of supervised release to follow and to a term of custody of 6 months on County 3, with 51 months of supervised release to follow, with both the custodial and supervised release terms to run concurrently. During the term of his supervised release, Yellow Owl shall be placed at Hope Ministries as directed by his probation officer.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO
OBJECT**

The parties may serve and file a written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. Section 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge and may waive the right to appear and allocute before a district court judge.

DATED this 2nd day of June 2025.


John Johnston
United States Magistrate Judge